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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,253	07/15/2003	Darko Kirovski	MS1-356USC1	9756
22801	7590	01/26/2005	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			SELLERS, DANIEL R	
			ART UNIT	PAPER NUMBER

2644

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/620,253

**Applicant(s)**

KIROVSKI ET AL.

**Examiner**

Daniel R. Sellers

**Art Unit**

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,17,21-23,26,33,34,37-39 and 42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,17,21-23,26,33,34,37-39 and 42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>see attachment</u> . | 6) <input type="checkbox"/> Other: _____  |

9/8/03  
12/15/03  
7/15/04

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 37 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Regarding claim 37, it is not clear as to how a plurality of first segments or second segments can exist.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1, 4, 17, 21-23, 26, 33, 34, 37, and 42 are rejected under 35

U.S.C. 102(e) as being clearly anticipated by Cookson, U.S. Patent No. 6,591,365.

6. Regarding claim 1, see Cookson

*An audio watermarking system comprising:*

*a pattern generator configured to generate both a strong watermark and a weak watermark; (Col. 4, lines 3-7) and*

*a watermark insertion unit configured to selectively insert either the strong watermark or the weak watermark into segments of the audio signal, so that resulting segments have either the strong or the weak watermark inserted therein, but not both. (Col. 4, lines 37-43 and lines 64-66).*

Cookson teaches a copy protection system, which can detect a weak and a strong watermark in an audio file. It is inherent that a system has inserted either a weak or strong watermark, but not both according to Cookson's teachings.

7. Regarding claim 4, the further limitation of claim 1, see Cookson column 3, lines 8-12. Cookson teaches a system that is an operating system.

8. Regarding claim 17, see the preceding argument with respect to claim 1.

Cookson teaches a system that can determine if a strong or weak watermark is present. It is inherent that a pattern generator exists in order to have created the strong and weak watermarks.

9. Regarding claim 21, see the preceding arguments with respect to claims 4 and 17. Cookson teaches an operating system.

10. Regarding claim 22, see the preceding arguments with respect to claims 1 and

17. Cookson teaches the watermark encoder, where the weak watermark is inserted in the least significant bits (LSB) and the strong watermark is not. Cookson further teaches the watermark detector.

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11. Regarding claim 23, see the preceding arguments with respect to claim 1.

Cookson teaches a separate watermark detector, which is used on a client side, and a watermark encoder, which is used by the audio content publisher (Col. 3, lines 38-42).

12. Regarding claim 26, see the preceding argument with respect to claim 1.

Cookson teaches that the strong and weak watermarks are in separate segments.

13. Regarding claim 33, see the preceding argument with respect to claim 1.

Cookson teaches these features.

14. Regarding claim 34, Cookson teaches a system with these features, which inherently uses computer readable medium (Col. 5, lines 43-44).

15. Regarding claim 37, see the preceding argument with respect to claim 1.

Cookson teaches a system for detecting the presence of weak and/or strong watermarks. It is inherent that a system created these watermarks, and it is inherent that they are contained within separate segments, because the weak watermark is destroyed by compression whereas the strong watermark is not.

16. Regarding claim 42, see the preceding argument with respect to claim 4.

Cookson teaches these features on an operating system.

### ***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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18. Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cookson as applied to claim 37 above, and further in view of Bloom et al. (Bloom), U.S. Patent No. 6,332,194.

19. Regarding claim 38, the further limitation of claim 37, see Bloom

*... wherein the watermark insertion unit selectively chooses segments for insertion of the watermarks according to an audible measure of the segments. (Col. 3, lines 14-21, and Col. 5, lines 53-61).*

Bloom teaches a method for watermark insertion. Bloom teaches the insertion of two different watermarks, however Bloom does not teach the structure of a weak and a strong watermark. Cookson teaches a watermark detection system, which detects the presence of a weak and/or strong watermark. Cookson does not teach that an audible measure is used for inserting a watermark. It would have been obvious for one of ordinary skill in the art to combine the teachings of Bloom with those of Cookson for the purpose of retaining the perceived quality of the audio source.

20. Regarding claim 39, the further limitation of claim 37, see the preceding argument with respect to claim 38. The combination of Cookson and Bloom teach this feature.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel R. Sellers whose telephone number is 703-605-4300. The examiner can normally be reached on Monday to Friday between 9am and 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 703-305-4040. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DRS



**SINH TRAN**  
**SUPERVISORY PATENT EXAMINER**